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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN JOHNSON (aka Iordan  
Arabadiou),

Defendant.

2:10-cr-00216-APG-VCF

**PLEA AGREEMENT**

The United States, by and through the undersigned, and the Defendant, BRIAN JOHNSON (aka Iordan Arabadiou), and his attorney, OSVALDO FUMO, Esq., respectfully submit this Plea Agreement under Fed. R. Crim. P. 11(c)(1)(A) and (B).

**I. SCOPE OF AGREEMENT**

The parties to this Plea Agreement are the United States and the Defendant, BRIAN JOHNSON (aka Iordan Arabadiou). This Plea Agreement binds the Defendant and the United States Attorney's Office for the District of Nevada. It does

1 not bind any other prosecuting, administrative, or regulatory authority, the United  
2 States Probation Office, or the Court.

3 The Plea Agreement sets forth the parties' agreement regarding criminal  
4 charges referenced in the Plea Agreement and applicable sentences, fines,  
5 restitution, and forfeiture. It does not control or prohibit the United States or any  
6 agency or third party from seeking any other civil or administrative remedies  
7 directly or indirectly against the Defendant.

8  
9 **II. DISPOSITION OF CHARGES AND WAIVER OF TRIAL RIGHTS**

10 A. Guilty Plea. The Defendant knowingly and voluntarily agrees to plead  
11 guilty to the following count contained in the Indictment filed on May 18, 2010:

12 Count 1: Conspiracy to Commit Fraud and Related Activity in Connection  
13 with Access Devices, in violation of Title 18, United States Code, Section 1029(b)(2);  
14 and Count 2, Use or Trafficking in Unauthorized Access Device, in violation of Title  
15 18, United States Code, Section 1029(a)(2)).

16 B. Waiver of Trial Rights. The Defendant acknowledges that he has been  
17 advised and understands that by entering a plea of guilty he is waiving -- that is,  
18 giving up -- certain rights guaranteed to all defendants by the laws and the  
19 Constitution of the United States. Specifically, the Defendant is giving up:

20  
21 1. The right to proceed to trial by jury on all charges, or to a trial  
22 by a judge if the Defendant and the United States both agree;

23 2. The right to confront the witnesses against the Defendant at  
24 such a trial, and to cross-examine them;

1           3.     The right to remain silent at such a trial, with assurance that his  
2 silence could not be used against him in any way;

3           4.     The right to testify in his own defense at such a trial if he so  
4 chooses;

5           5.     The right to compel witnesses to appear at such a trial and testify  
6 in the Defendant's behalf; and

7           6.     The right to have the assistance of an attorney at all stages of  
8 such proceedings.

9           C.     Withdrawal of Guilty Plea. The Defendant will not seek to withdraw  
10 his guilty plea after he has entered it in court.

11           D.     Dismissal of Charges. After the Court has adjudged a sentence in this  
12 case, the government will move to dismiss all remaining charges in the Indictment.

13           E.     Additional Charges. The United States agrees not to bring any  
14 additional charges against the Defendant arising out of the investigation in the  
15 District of Nevada that culminated in this Plea Agreement or for conduct known to  
16 the United States at the time of this Agreement.

17  
18           **III.   ELEMENTS OF THE OFFENSE**

19           Count 1: The elements of Conspiracy to Commit Access Device Fraud and  
20 Related Activity, in violation of Title 18, United States Code, Section 1029(b)(2), are  
21 the following:

22           1) beginning on or about April 20, 2009, and ending on or about May 26,  
23 2009, there was an agreement between two or more persons to commit  
24

1 at least one crime contained in 18 U.S.C. §1029(a);

2 2) the defendant became a member of the conspiracy knowing of at least

3 one of its objects and intending to help accomplish it; and

4 3) one of the members of the conspiracy performed at least one overt act

5 on or after April 20, 2009, for the purpose of carrying out the

6 conspiracy.

7  
8 Count 2: The elements of Production, Use, or Trafficking of Counterfeit Access  
9 Device, in violation of Title 18, United States Code, Sections 1029(a)(1) and (2), are  
10 the following:

11 1) the defendant knowingly used, produced, or trafficked in a counterfeit

12 access device;

13 2) the defendant acted with intent to defraud; and

14 3) the defendant's conduct in some way affected commerce between one

15 state and another state, or between a state of the United States and

16 a foreign country.

17 **IV. FACTS SUPPORTING GUILTY PLEA**

18 A. The Defendant will plead guilty because he is, in fact and under the  
19 law, guilty of the crime charged.

20  
21 B. The Defendant acknowledges that if he elected to go to trial instead of  
22 pleading guilty, the United States could prove his guilt beyond a reasonable doubt.

23 The Defendant further acknowledges that his admissions and declarations of fact set  
24 forth below satisfy every element of the charged offense.

1 C. The Defendant waives any potential future claim that the facts he  
2 admitted in this Plea Agreement were insufficient to satisfy the elements of the  
3 charged offense.

4 D. The Defendant admits and declares under penalty of perjury that the  
5 facts set forth below are true and correct:

6 From a date unknown but no later than April 20, 2009, up to and including  
7 May 26, 2009, the defendants DIMITAR DIMITROV, ANGEL IORDANOV, DANAIL  
8 TCHANEV, BRIAN JOHNSON, and STEFAN GEORGIEV developed a scheme and  
9 artifice to defraud financial institutions insured by the Federal Deposits Insurance  
10 Corporation of money through the stealing of customers' financial account  
11 information and using the information to withdraw funds from financial institutions'  
12 Automatic Teller Machines (ATM).

14 The scheme and artifice defendants developed to steal customers financial  
15 account information is often times referred to as "skimming." The ATM skimming  
16 process is designed to allow the perpetrators, in this case the defendants, to capture  
17 a victim's bank account number and personal identification number (PIN). These two  
18 pieces of information are the same two pieces of information a bank would require a  
19 regular customer to present to conduct a transaction at an ATM. Once the defendants  
20 captured a victim's account number and PIN information, the defendants  
21 manufactured a counterfeit debit card that could be used at any bank ATM to  
22 withdraw money from the victim's bank account. In manufacturing counterfeit debit  
23 cards, defendants first installed a skimming device on one or more of a bank's ATMs  
24

1 to capture customers' account number. A skimming device is a device that reads and  
2 stores the information contained on the magnetic strip of a debit or credit card,  
3 which includes the customer's account number. The skimming device would have had  
4 to be placed; over the ATM's card reader, where a customer would normally insert his  
5 or her debit card during an ATM transaction. When an unsuspecting customer  
6 inserted his or her debit card into the ATM, the skimming device captured all of the  
7 customers' account information contained on the magnetic strip of the debit card and  
8 the device stored the information on a memory module along with the date and time  
9 of the transaction.  
10

11 The defendants also took steps to capture a victim customer's personal  
12 identification number or PIN. Generally, the defendants were capable of using two  
13 possible methods to capture victims' PINs: In the first method, the defendants  
14 fabricated a piece of plastic, that was painted to match the color of the targeted ATM.  
15 The piece of plastic was hollowed out in order to conceal a covert camera and a power  
16 supply. A pin-sized hole was drilled into the plastic to keep the camera lens from  
17 being obstructed. The piece of plastic was attached to the top of the ATM, with  
18 adhesive, and positioned to give the covert camera a view of the ATM's PIN pad. This  
19 allowed the camera to capture each customer's PIN as it was typed into the ATM,  
20 using the ATM's PIN pad. The video recorded by the covert camera was stored on a  
21 memory module along with the date and time of the transaction. In the second  
22 method, defendants would replace the ATM's PIN pad with a PIN pad that conceals  
23 a "key logger." In this method, the "key logger" recorded the numbers associated with  
24

1 the keys that were pressed on the ATM's PIN pad as the victim customer entered  
2 their PIN, along with the date and time of the transaction. Despite the  
3 aforementioned modifications, the targeted ATM would have continued to function  
4 normally and the customer would have had no way of knowing that his or her debit  
5 card and PIN information had been compromised. The defendants would return later  
6 to retrieve the skimming device and covert camera/key logger. During the final step  
7 of the process, the defendants matched the victim -customers' account numbers stored  
8 on the skimming device with the corresponding PINs stored on either the camera or  
9 key logger based on the date and time of the transactions. The defendants then use  
10 computer and a re-encoding device to write the victim customers' account information  
11 onto a plastic card that contains a magnetic strip, in particular gift cards. The  
12 defendants would typically write the PIN for the corresponding account on a decal  
13 and affix the decal to the counterfeit debit card so the defendants could keep track of  
14 which PIN went to which account or debit card.

16       Once the counterfeit debit cards were created, the defendants used the  
17 counterfeit debit cards at various ATMs in or around Las Vegas and Henderson,  
18 Nevada, and Mesa, Arizona, and other locations to withdraw money from the victim  
19 customers' checking and/or savings accounts, creating a financial loss to the victims  
20 and/or the financial institutions.

22       On April 20, 2009, starting at approximately 4:08 p.m., and continuing for  
23 approximately 30 minutes, ANGEL IORDANOV, BRIAN JOHNSON, and DANAIL  
24 TCHANEV were observed conducting multiple transactions, on a rotating basis, from

1 the walk-up ATMs of the Wells Fargo branch located at 900 North Green Valley  
2 Parkway, Henderson, Nevada, and the Bank of America branch located at 1100 North  
3 Green Valley Parkway, Henderson, Nevada.

4 On April 20, 2009, at approximately 4:56 p.m., ANGEL IORDANOV, BRIAN  
5 JOHNSON, and DANAIL TCHANEV arrived at the Bank of America branch, located  
6 at 2798 Green Valley Parkway, Henderson, Nevada and for approximately 20  
7 minutes, ANGEL IORDANOV and either BRIAN JOHNSON or DANAIL TCHANEV  
8 conducted multiple ATM transactions from the bank's walk-up ATM, on a rotating  
9 basis.  
10

11 On April 20, 2009, at approximately 5:26 p.m., ANGEL IORDANOV, BRIAN  
12 JOHNSON, and DANAIL TCHANEV arrived at the CitiBank branch, located at 2891  
13 North Green Valley Parkway, Henderson, Nevada, and for approximately 15 minutes  
14 conducted multiple ATM transactions from the bank's walk-up ATM, on a rotating  
15 basis.

16 On April 20, 2009, at approximately 5:47 p.m., ANGEL IORDANOV, BRIAN  
17 JOHNSON, and DANAILTCHANEV arrived at the Wells Fargo branch, located at  
18 2420 East Sunset Road, Las Vegas, Nevada, and for approximately 5 minutes ANGEL  
19 IORDANOV and either BRIAN JOHNSON or DANAIL TCHANEV conducted  
20 multiple ATM transactions at the bank's walk-up ATM, on a rotating basis.  
21

22 On April 20, 2009, at approximately 6:01 p.m., ANGEL IORDANOV, BRIAN  
23 JOHNSON, and DANAIL TCHANEV arrived at the Wells Fargo Bank located at  
24 2231 North Green Valley Parkway, Henderson, Nevada and for approximately 15



1 minutes conducted multiple ATM transactions from the bank's walk-up ATM, on a  
2 rotating basis.

3 On April 20, 2009, at approximately 6:23 p.m., ANGEL IORDANOV, BRIAN  
4 JOHNSON, and DANAIL TCHANEV, for approximately 15 minutes, conducted  
5 multiple ATM transactions, on a rotating basis, from the walk-up ATMs of the Wells  
6 Fargo branch, located at 900 North Green Valley Parkway and the Bank of America  
7 branch, located at 1100 North Green Valley Parkway.

8 On April 20, 2009, at approximately 6:46 p.m., ANGEL IORDANOV, BRIAN  
9 JOHNSON, and DANAIL TCHANEV arrived at the Bank of America branch, located  
10 at 2798 North Green Valley Parkway and for approximately 20 minutes conducted  
11 multiple transactions from the bank's walk-up ATM, on a rotating basis.

12 On April 20, 2009, at approximately 7:13 p.m., ANGEL IORDANOV, BRIAN  
13 JOHNSON, and DANAIL TCHANEV arrived at the CitiBank branch, located at 2891  
14 North Green Valley Parkway and for approximately 10 minutes conducted multiple  
15 transactions from the bank's walk-up ATM, on a rotating basis.

16 On April 20, 2009, at approximately 7:31 p.m., ANGEL IORDANOV, BRIAN  
17 JOHNSON, and DANAIL TCHANEV arrived at the Wells Fargo branch, located at  
18 2420 East Sunset Road and for approximately 9 minutes conducted multiple  
19 transactions at the bank's walk-up ATM, on a rotating basis.

20 On April 20, 2009, at approximately 7:49 p.m., ANGEL IORDANOV, BRIAN  
21 JOHNSON, and DANAIL TCHANEV arrived at the Wells Fargo branch located  
22  
23  
24

1 at 2231 North Green Valley Parkway and for approximately 10 minutes conducted  
2 multiple ATM transactions, on a rotating basis, at the bank's walk-up ATM.

3 On April 20, 2009, at approximately 8:15 p.m., ANGEL IORDANOV, BRIAN  
4 JOHNSON, and DANAIL TCHANEV for approximately 11 minutes conducted  
5 multiple ATM transactions, on a rotating basis, from the walk-up ATMs of the Wells  
6 Fargo branch, located at 900 North Green Valley Parkway, and the Bank of America  
7 branch, located at 1100 North Green Valley Parkway.

8 On April 20, 2009, at approximately 8:33 p.m., ANGEL IORDANOV, BRIAN  
9 JOHNSON, and DANAIL TCHANEV arrived at the Bank of America branch located  
10 at 2798 Green Valley Parkway and for approximately 17 minutes conducted multiple  
11 ATM transactions at the bank's walk-up ATM, on a rotating basis.

12 On April 20, 2009, at approximately 8:54 p.m., ANGEL IORDANOV, BRIAN  
13 JOHNSON, and DANAIL TCHANEV arrived at the CitiBank branch, located at 2891  
14 North Green Valley Parkway and for approximately 15 minutes conducted multiple  
15 transactions from the bank's walk-up ATM, on a rotating basis.

16 On April 20, 2009, at approximately 9:24 p.m., ANGEL IORDANOV, BRIAN  
17 JOHNSON, and DANAIL TCHANEV arrived at the Bank of America branch, located  
18 at 4795 South Maryland Parkway, Las Vegas, Nevada and for approximately 18  
19 minutes conducted multiple transactions from the bank's walk-up ATM, on a rotating  
20 basis.

21 On May 5, 2009, at approximately 5:52 p.m., ANGEL IORDANOV, BRIAN  
22 JOHNSON, DANAIL TCHANEV, and STEFAN GEORGIEV arrived at the Wells  
23  
24

1 Fargo walk-up ATM, located at 6111 West Tropicana Avenue, Las Vegas, Nevada  
2 and for approximately 13 minutes, DANAIL TCHANEV, ANGEL IORDANOV and  
3 GERRGIEV conducted multiple transactions at the ATM.

4 On May 5, 2009, at approximately 6:10 p.m., ANGEL IORDANOV, BRIAN  
5 JOHNSON, DANAIL TCHANEV, and STEFAN GEORGIEV arrived at the Self  
6 Storage City, located at 6740 West Flamingo Road.

7 The Defendant admits that all of the foregoing took place in the State and  
8 Federal District of Nevada, and elsewhere.

9 The Defendant also admits that the loss amount, as a result of his conduct, was  
10 more than \$150,000 but less than \$250,000.

#### 12 V. COLLATERAL USE OF FACTUAL ADMISSIONS

13 The facts set forth in Section IV of this Plea Agreement shall be admissible  
14 against the Defendant under Fed. R. Evid. 801(d)(2)(A) at sentencing for any  
15 purpose. If the Defendant does not plead guilty or withdraws his guilty plea, the  
16 facts set forth in Section IV of this Plea Agreement shall be admissible at any  
17 proceeding, including a trial, for impeaching or rebutting any evidence, argument,  
18 or representation offered by or on the Defendant's behalf. The Defendant expressly  
19 waives all rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 regarding the  
20 use of the facts set forth in Section IV of this Plea Agreement.

#### 22 VI. APPLICATION OF SENTENCING GUIDELINES PROVISIONS

23 A. Discretionary Nature of Sentencing Guidelines. The Defendant  
24 acknowledges that the Court must consider the United States Sentencing Guidelines

(“USSG,” “Sentencing Guidelines,” or “Guidelines”) in determining the Defendant’s sentence, but that the Sentencing Guidelines are advisory, not mandatory, and the Court has discretion to impose any reasonable sentence up to the maximum term of imprisonment permitted by statute.

**B. Offense Level Calculations.**

1. Counts 1-2: The parties stipulate to the following calculation of the Defendant’s offense level under the Sentencing Guidelines, acknowledge that these stipulations do not bind the Court, and agree that they will not seek to apply any other specific offense characteristics, enhancements, variances, or reductions under the Sentencing Guidelines:

Base offense level (USSG §2B1.1)	6
<b>Special Offense Characteristics</b>	
Loss Greater than \$250,000, More than \$150,000 (USSG § 2B1.1(b)(1)(F))	+10
Use of Unauthorized Device/Device-Making Equipment (USSG § 2B1.1(b)(11))	+2
Sophisticated Means/Relocation to Another Jurisdiction/Substantial Part of Scheme Outside United States (USSG § 2B1.1(b)(10(A)-(C))	+2
<b>Adjusted Offense Level</b>	<b><u>20</u></b>
Acceptance of Responsibility (USSG §§ 3E1.1(a) and (b))	-3
<b>Total Offense Level</b>	<b><u>17</u></b>

The Defendant acknowledges that the statutory maximum sentence and any

1 statutory minimum sentence limit the Court's discretion in determining the  
2 Defendant's sentence notwithstanding any applicable Sentencing Guidelines  
3 provisions.

4 C. Reduction of Offense Level for Acceptance of Responsibility. Under  
5 USSG § 3E1.1(a), the United States will recommend that the Defendant receive a  
6 two-level downward adjustment for acceptance of responsibility unless he (a) fails to  
7 truthfully admit facts establishing a factual basis for the guilty plea when he enters  
8 the plea; (b) fails to truthfully admit facts establishing the amount of restitution  
9 owed when he enters his guilty plea; (c) fails to truthfully admit facts establishing  
10 the forfeiture allegations when he enters his guilty plea; (d) provides false or  
11 misleading information to the United States, the Court, Pretrial Services, or the  
12 Probation Office; (e) denies involvement in the offense or provides conflicting  
13 statements regarding his involvement or falsely denies or frivolously contests  
14 conduct relevant to the offense; (f) attempts to withdraw his guilty plea; (g) commits  
15 or attempts to commit any crime; (h) fails to appear in court; or (i) violates the  
16 conditions of pretrial release.

17  
18 Under USSG §3E1.1(b), the United States will move for an additional one-  
19 level downward adjustment for acceptance of responsibility before sentencing  
20 because the Defendant communicated his decision to plead guilty in a timely manner  
21 that enabled the United States to avoid preparing for trial and to efficiently allocate  
22 its resources. These Sentencing Guidelines provisions, if applied, will result in an  
23 adjusted offense level of 17, as depicted above.  
24

1       D.    Criminal History Category. The Defendant acknowledges that the  
2 Court may base its sentence in part on his criminal record or criminal history and  
3 that the Court will determine the Defendant's Criminal History Category under the  
4 Sentencing Guidelines.

5       E.    Relevant Conduct. The Court may consider all relevant conduct,  
6 whether charged or uncharged, in determining the applicable Sentencing Guidelines  
7 range and whether to depart from that range.

8       F.    Additional Sentencing Information. The stipulated Sentencing  
9 Guidelines calculations are based on information now known to the parties. The  
10 parties may provide additional information to the United States Probation Office  
11 and the Court regarding the nature, scope, and extent of the Defendant's criminal  
12 conduct and any aggravating or mitigating facts or circumstances. Good faith efforts  
13 to provide truthful information or to correct factual misstatements shall not be  
14 grounds for the Defendant to withdraw his guilty plea.

15  
16       The parties agree that neither party will argue for additional adjustments,  
17 enhancements, variances, or departures from the Sentencing Guidelines range  
18 stipulated above. The Defendant acknowledges that the United States Probation  
19 Office may calculate the Sentencing Guidelines differently and may rely on  
20 additional information it obtains through its investigation. The Defendant also  
21 acknowledges that the Court may rely on this and other additional information as it  
22 calculates the Sentencing Guidelines range and/or makes other sentencing  
23 determinations as appropriate, and that the Court's reliance on such information  
24

1 shall not be grounds for the Defendant to withdraw his guilty plea.

2 As a further part of this agreement, and as set forth more fully below, the  
3 parties intend that the government will argue for a sentence within the guidelines.

4 **VII. APPLICATION OF SENTENCING STATUTES**

5 **A. Maximum Penalty.**

6 1. Count 1: The maximum penalty for Conspiracy to Commit Fraud  
7 and Related Activity in Connection with Access Devices, under 18 U.S.C. § 1029(b)(2)  
8 is 7.5 years' imprisonment, a fine of \$250,000, or both.

9 2. Count 2: The maximum penalty for Use or Trafficking in  
10 Unauthorized Access Device under 18 U.S.C. § 1029(a)(2) is 10 years' imprisonment,  
11 a fine of \$250,000, or both.

12 **B. Factors Under 18 U.S.C. § 3553.** The Court must consider the factors  
13 set forth in 18 U.S.C. § 3553(a) in determining the Defendant's sentence. However,  
14 the statutory maximum sentence and any statutory minimum sentence limit the  
15 Court's discretion in determining the Defendant's sentence.

16 **C. Parole Abolished.** The Defendant acknowledges that his prison  
17 sentence cannot be shortened by early release on parole because parole has been  
18 abolished.

19 **D. Supervised Release.** In addition to imprisonment and a fine, the  
20 Defendant will be subject to a term of supervised release not greater than three (3)  
21 years. 18 U.S.C. §§ 3559(a)(1) and 3583(b)(1)). Supervised release is a period of time  
22 after release from prison during which the Defendant will be subject to various  
23  
24

1 restrictions and requirements. If the Defendant violates any condition of supervised  
2 release, the Court may order the Defendant's return to prison for all or part of the  
3 term of supervised release, which could result in the Defendant serving a total term  
4 of imprisonment greater than the statutory maximum prison sentence.

5 E. Special Assessment. The Defendant will pay a \$100 special assessment  
6 per count at the time of sentencing.

#### 7 **VIII. RESTITUTION**

8 In exchange for benefits received under this Plea Agreement, the Defendant  
9 agrees to make full restitution to any victims named in the judgment at the time of  
10 sentencing. 18 U.S.C. § 3663(a)(3). The Defendant cannot discharge his restitution  
11 obligation through bankruptcy proceedings. The Defendant acknowledges that  
12 restitution payments and obligations cannot offset or reduce the amount of any  
13 forfeiture judgment imposed in this case.

#### 15 **IX. POSITIONS REGARDING SENTENCE**

16 The Government will recommend that the defendant be sentenced to a term  
17 of imprisonment within the applicable sentencing guideline range. The parties  
18 further jointly recommend that any sentence of imprisonment imposed by the Court  
19 run concurrently (that is, at the same time) between Counts 1 and 2. Finally, the  
20 parties jointly recommend that the defendant be given credit for the time he was  
21 arrested, detained, and ultimately incarcerated in Bulgaria on the international  
22 arrest warrant related to this case. He was arrested on the warrant on December 8,  
23 2011. The Defendant acknowledges that the Court does not have to follow this  
24



1 recommendation.

2 The defendant acknowledges that the Court does not have to follow that  
3 recommendation.

4 The defendant may request a sentence below the Sentencing Guidelines  
5 range as calculated in this Plea Agreement, and may seek a downward adjustment  
6 pursuant to 18 U.S.C. § 3553 or USSG § 4A1.3(b)(1) from any sentence the Court  
7 may impose.

8 This Plea Agreement does not require the United States to file any pre- or  
9 post-sentence downward departure motion under USSG § 5K1.1 or Fed. R. Crim. P.  
10 35. The United States reserves its right to defend any lawfully imposed sentence on  
11 appeal or in any post-conviction litigation.  
12

13 **XI. FINANCIAL INFORMATION AND DISPOSITION OF ASSETS**

14 Before or after sentencing, or upon request by the Court, the United States,  
15 or the Probation Office, the Defendant will provide accurate and complete financial  
16 information, submit sworn statements, and/or give depositions under oath  
17 concerning his assets. The Defendant will release such funds and property under his  
18 control in order to pay any assessment and/or fine imposed by the Court.  
19

20 **XII. THE DEFENDANT'S ACKNOWLEDGMENTS AND WAIVERS**

21 A. Plea Agreement and Decision to Plead Guilty. The Defendant  
22 acknowledges that:

23 1. He has read this Plea Agreement and understands its terms and  
24 conditions;

1           2.     He has had adequate time to discuss this case, the evidence, and  
2 this Plea Agreement with his attorney;

3           3.     He has discussed the terms of this Plea Agreement with his  
4 attorney;

5           4.     The representations contained in this Plea Agreement are true  
6 and correct, including the facts set forth in Section IV; and

7           5.     He was not under the influence of any alcohol, drug, or medicine  
8 that would impair his ability to understand the Agreement when he considered  
9 signing this Plea Agreement and when he signed it.

10  
11           The Defendant understands that he alone decides whether to plead guilty or  
12 go to trial, and acknowledges that he has decided to enter his guilty plea knowing of  
13 the charges brought against him, his possible defenses, and the benefits and possible  
14 detriments of proceeding to trial. The Defendant also acknowledges that he decided  
15 to plead guilty voluntarily and that no one coerced or threatened him to enter into  
16 this Plea Agreement.

17           B.     Waiver of Appeal and Post-Conviction Proceedings. The Defendant  
18 knowingly and expressly waives: (a) the right to appeal any sentence imposed within  
19 or below the applicable Sentencing Guideline range as determined by the Court; (b)  
20 the right to appeal the manner in which the Court determined that sentence on the  
21 grounds set forth in 18 U.S.C. § 3742; and (c) the right to appeal any other aspect of  
22 the conviction or sentence and any order of restitution or forfeiture.

23  
24           The Defendant also knowingly and expressly waives all collateral challenges,

1 including any claims under 28 U.S.C. § 2255, to his conviction, sentence, and the  
2 procedure by which the Court adjudicated guilt and imposed sentence, except non-  
3 waivable claims of ineffective assistance of counsel.

4 The Defendant reserves only the right to appeal any portion of the sentence  
5 that is an upward departure from the Sentencing Guidelines range determined by  
6 the Court.

7 The Defendant acknowledges that the United States is not obligated or  
8 required to preserve any evidence obtained in the investigation of this case.  
9

10 C. Removal/Deportation Consequences. The Defendant understands and  
11 acknowledges that if he is not a United States citizen, then it is highly probable that  
12 he will be permanently removed (deported) from the United States as a consequence  
13 of pleading guilty under the terms of this Plea Agreement. The Defendant has also  
14 been advised that if his conviction is for an offense described in 8 U.S.C. §  
15 1101(a)(43), he will be deported and removed from the United States and will not be  
16 allowed to return to the United States at any time in the future. The Defendant  
17 desires to plead guilty regardless of any immigration consequences that may result  
18 from his guilty plea, even if the consequence is automatic removal from the United  
19 States with no possibility of returning. The Defendant acknowledges that he has  
20 specifically discussed these removal/deportation consequences with his attorney.  
21

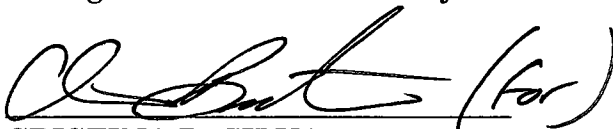
### 22 XIII. ADDITIONAL ACKNOWLEDGMENTS

23 This Plea Agreement resulted from an arms-length negotiation in which both  
24 parties bargained for and received valuable benefits in exchange for valuable


1 concessions. It constitutes the entire agreement negotiated and agreed to by the  
2 parties. No promises, agreements or conditions other than those set forth in this  
3 agreement have been made or implied by the Defendant, the Defendant's attorney,  
4 or the United States, and no additional promises, agreements or conditions shall have  
5 any force or effect unless set forth in writing and signed by all parties or confirmed  
6 on the record before the Court.  
7

8 STEVEN W. MYHRE  
Acting United States Attorney


9 8/1/17  
10 DATE

  
11 CRISTINA D. SILVA  
Assistant United States Attorney  
Counsel for the United States of America

12 8.1.17  
13 DATE

  
14 OSVALDO FUMO, ESQ.  
Counsel for Defendant

15 8-1-17  
16 DATE

  
17 BRIAN JOHNSON (aka Iordan Arabadieu)  
Defendant  
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